

IN THE U.S. PATENT AND TRADEMARK OFFICE

Appellants: James A JOHANSON et al.
Application No.: 09/777,884
Art Unit: 2152
Filed: February 7, 2001
Examiner: Dohm Chankong
For: BLUETOOTH DEVICE POSITION DISPLAY
Attorney Docket No.: 129250-001020/US

APPELLANTS' REPLY BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

December 3, 2007

Sir/Madam:

In response to the Examiner's Answer dated October 11, 2007 the Appellants submit the following Reply Brief.

ARGUMENTS

A. Fumarolo Does Not Select A Device "To Communicate With"

In the Examiner's Answer the Examiner repeatedly takes the position that Fumarolo selects devices. However, the claims are directed at the selection of a nearby device to communicate with.

It is inescapable that Fumarolo's selection of individual devices is not for communicating with an individual device. Rather, devices are selected to be placed into a group in order to create a group of devices. Any other interpretation belies the plain reading of Fumarolo (see, for example, the first line of the Abstract which states: "A display terminal (110) employs a method and apparatus for dynamically grouping communication units (105-113) operating in a communication system (100)").

B. Any Communications That Do Occur In Fumarolo Are With A Group, Not An Individual Device

Throughout much of the Answer the Examiner avoids combining the features of selection and communication. Instead, the Examiner appears to parse the claim language, stating that Fumarolo discloses selection (but not communication) or communicating (without the selection feature).

For example, on page 6 the Examiner talks about the selection of communication units, but does not mention that the units are selected in order to group them, not to communicate with one of them.

The exception is page 8 where the Examiner appears to rely on column 9, lines 60-65 of Fumarolo for both the selection and communication features.

However, this excerpt from Fumarolo discusses communications with a group of "units" (105, 107-109, 113), not with an individual unit or device that has been previously selected.

C. The Combination of Fumarolo and Bork is Improper

In the Answer the Examiner states, in sum, that the Appellants provide “no reasons” or citations from Fumarolo and Bork for the Appellants statement that “one of ordinary skill in the art would realize that the particular Bluetooth based system in Bork could not be used in the system of Fumarolo because such a Bluetooth system would most likely not have the distance or range needed to carry out the principle of operation of Fumarolo”.

As the Examiner knows well Bluetooth systems provide short range communications (see Bork, column 1, lines 44-47) of approximately 100 meters (Bork, column 1, lines 51-52).

In contrast, the principle of operation in Fumarolo requires a signal to travel distances outside the range of a Bluetooth signal, as in the case where communication units belonging to a number of different agencies (i.e. fire department, police department, ambulance) must be grouped together, especially when the individuals operating such units are enroute to an incident (e.g. accident, fire).

Conclusion:

Appellants respectfully request that the members of the Board reverse the Examiner's rejection of claims 3-5, 19 and 30-37 and allow these claims.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

Capitol Patent & Trademark Law Firm, PLLC

By: /John E. Curtin/
John E. Curtin, Reg. No. 37,602

(703)266-3330
P.O. Box 1995
Vienna, VA 22183